



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

August 7, 1998

Ms. Cathy Cunningham  
Senior Assistant City Attorney  
City of Irving  
825 W. Irving Boulevard  
Irving, Texas 75060

OR98-1875

Dear Ms. Cunningham:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 117214.

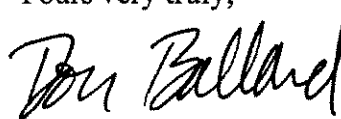
The City of Irving (the "city") received a request for all information concerning the responses the requestor's personal references gave when she applied for employment with the city, including formal and informal references. You claim that the requested information is protected from disclosure by section 552.102 of the Government Code. We have considered the exception you claim and have reviewed the documents at issue.

You assert that the requested information is excepted from disclosure by section 552.102. You state the information should be withheld to protect those persons who give opinions about potential city employees. You state that the city relies on these frank opinions when hiring employees. Section 552.102 excepts from disclosure "information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." Gov't Code § 552.102(a). In *Hubert v. Harte-Hanks Texas Newspapers*, 652 S.W.2d 546 (Tex. App.--Austin 1983, writ ref'd n.r.e.), the court ruled that the test to be applied to information claimed to be protected under section 552.102 is the same as the test formulated by the Texas Supreme Court in *Industrial Foundation* for information claimed to be protected under the doctrine of common-law privacy as incorporated by section 552.101 of the act. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by constitutional or common-law privacy and excepts from disclosure private facts about an individual. *Id.* Therefore, information may be withheld from the public when (1) it is highly intimate and embarrassing such that its release would be highly objectionable to a person of ordinary

sensibilities, and (2) there is no legitimate public interest in its disclosure. *Id.* at 685; Open Records Decision No. 611 (1992) at 1. We have reviewed the submitted documents. We do not believe that the requested information is protected by a right of privacy. *See* Open Records Decision No. 455 (1987) (references not protected by privacy), 284 (1981) (letters of reference generally not protected by right to privacy). The requested information must be released.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink that reads "Don Ballard". The signature is written in a cursive, slightly slanted style.

Don Ballard  
Assistant Attorney General  
Open Records Division

JDB/nc

Ref: ID# 117214

Enclosures: Submitted documents

cc: Ms.Cissy Sylo  
City of Carrollton  
P.O. Box 110535  
Carrollton, Texas 75011-0535  
(w/o enclosures)